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**BEFORE THE ARIZONA POWER PLANT  
AND TRANSMISSION LINE SITING COMMITTEE**

IN THE MATTER OF THE APPLICATION OF )  
ARIZONA PUBLIC SERVICE COMPANY, IN )  
CONFORMANCE WITH THE )  
REQUIREMENTS OF ARIZONA REVISED )  
STATUTES §§ 40-360, *et seq.*, FOR A )  
CERTIFICATE OF ENVIRONMENTAL )  
COMPATIBILITY AUTHORIZING THE TS-5 )  
TO TS-9 500/230 kV TRANSMISSION LINE )  
PROJECT, WHICH ORIGINATES AT THE )  
FUTURE TS-5 SUBSTATION, LOCATED IN )  
THE WEST HALF OF SECTION 29, )  
TOWNSHIP 4 NORTH, RANGE 4 WEST AND )  
TERMINATES AT THE FUTURE TS-9 )  
SUBSTATION, LOCATED IN SECTION 33, )  
TOWNSHIP 6 NORTH, RANGE 1 EAST, IN )  
MARICOPA COUNTY, ARIZONA. )

Docket No. L-00000D-08-0330-00138

Case No. 138

**MOTION TO CONTINUE, STAY OR  
DISMISS PROCEEDINGS BEFORE THE  
ARIZONA POWER PLANT AND LINE  
SITING COMMITTEE IN CONNECTION  
WITH APS'S TS-5 TO TS-9 500/230 KV  
PROJECT**

Intervenor 10,000 West, L.L.C. ("10,000 West") hereby files its Motion to Continue, Stay or Dismiss Proceedings Before the Arizona Power Plant and Line Siting Committee ("Line Siting Committee" or "Committee") with Arizona Public Service Company's ("APS") Application for a Certificate of Environmental Compatibility, Case No. 138, Docket No. L-00000D-08-0330-00138 ("TS-5 to TS-9 Project" or "Application") which is currently pending before the Line Siting Committee.

## I. INTRODUCTION

This is a case in which APS is wrongfully attempting to obtain approval from the Line Siting Committee to build two costly, extra high-voltage transmission lines without any evidence that the transmission lines are actually necessary for public use. Over the course of the past five months of hearings, it has become abundantly clear that APS is unnecessarily over-building the electrical system given current and projected electric needs in the Phoenix metropolitan area. APS arrogantly believes that the Committee and/or the Arizona Corporation Commission ("Corporation Commission") will rubber stamp its application to build the TS-5 to TS-9 Project. It is for this reason that APS has refused to voluntarily withdraw or stay its Application and instead has placed the Committee in the unfortunate situation of making a decision on APS's Application notwithstanding the fact that: (1) APS failed to demonstrate in its case in chief that the TS-5 to TS-9 Project is necessary; (2) APS utterly ignored the Committee's request to address the issue of necessity in its rebuttal case<sup>1</sup> and moreover failed to rebut *any* of the intervenors' evidence showing that the TS-5 to TS-9 Project is not now and may never be necessary; and (3) APS admits that it does not plan to begin construction of the 500 kV portion of the TS-5 to TS-9 Project for another six (6) to eight (8) years, i.e., until 2014 or 2016. *See* Transcript of Line Siting Committee Proceedings, Testimony of John Lucas, dated Oct. 20, 2008, 986:10-17. In fact, the most that can be said for APS's stated need is that at some distant future the TS-5 to TS-9 Project may become necessary.

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<sup>1</sup> As recently as November 17, 2008, the Line Siting Committee expressed its concern that APS lacks evidence that the TS-5 to TS-9 Project is necessary. *See* Transcript of Line Siting Committee Proceedings, Nov. 17, 2008, 2622:19-25. Member Haenichen specifically requested that APS present evidence to rebut 10,000 West's assertion that the TS-5 to TS-9 Project is not needed at all. *See id.* ("I think we need a solid rebuttal by the company, by the applicant, to the assertion that the lines are not needed at all. One of the witnesses quite some time ago, a couple weeks ago, said, well, they are just not needed at all. So I think we need to address that solidly so we have a better understanding of the need."). Instead of presenting any "solid rebuttal" on the issue of necessity, APS apparently intends to address this issues at closing. In so doing, APS has intentionally deprived the Committee of what it specifically requested: additional evidence on the issue of need and an opportunity to question APS regarding such evidence.

1 But even when (or if) such need becomes more certain, the landscape upon which the  
2 TS-5 to TS Project is currently based will be vastly different. For example, the Transwest  
3 Connect project may be routed if not fully installed which will materially affect not only the  
4 proposed need but also the route of the TS-5 to TS-9 Project. Moreover, APS cannot dispute  
5 that the current economic crisis has forced APS to make drastic reductions to its capital  
6 expenditures whereby APS has eliminated or otherwise delayed numerous projects including  
7 the TS-5 to TS-9 Project. Because APS has utterly failed to demonstrate that the TS-5 to TS-9  
8 Project is necessary, the Committee should not evaluate or otherwise consider any of APS's  
9 proposed routes. Rather, this Committee should continue, stay, or otherwise dismiss these  
10 proceedings until APS can demonstrate the necessity of the TS-5 to TS-9 Project.

## 11 **II. FACTUAL BACKGROUND**

### 12 **A. APS Files An Application For Certificate Of Environmental Compatibility**

13 On July 1, 2008, APS filed its Application for a Certificate of Environmental  
14 Compatibility for the TS-5 to TS-9 Project with the Committee. *See* Application. In its  
15 Application, APS seeks to connect two extra high voltage transmission lines (a 500 kV and a  
16 230 kV line) from APS's planned TS-5 Substation in Buckeye, Arizona to its planned TS-9  
17 Substation in Peoria, Arizona. *See id.* at 3.

18 Over the course of more than five months of proceedings, APS and the intervenors,  
19 including 10,000 West, have presented dozens of fact and expert witnesses and produced  
20 voluminous documentation in connection with the Application. *See generally* Reporter's  
21 Transcript of Proceedings, Vol. I-XIV. One of the issues central to the Committee's  
22 deliberation is whether APS has shown that the TS-5 to TS-9 Project is necessary. *See, e.g.,*  
23 Reporter's Transcript of Proceedings at 970-1140, 1569-1636. The Committee has heard  
24 extensive expert testimony on this topic. *See id.* That testimony has established, among other  
25 things, that APS's Application lacks any evidence of necessity, that APS has failed to conduct  
26 those studies typically used to show a transmission line is necessary, and that APS would  
27 benefit from more time to determine whether the Project is necessary. *See, e.g., id.* at 1569-  
28 1610.

1           **B.     APS's Application And Its Evidence Presented At The Hearings Fails To**  
2           **Establish The TS-5 to TS-9 Project Is Necessary.**

3           APS has had several years to gather evidence in support of the TS-5 to TS-9 Project.  
4 Yet despite this time and the studies it undertook (or failed to undertake) to demonstrate that the  
5 TS-5 to TS-9 Project was necessary, neither the meager assertions of necessity in its  
6 Application nor its expert testimony during the hearings have established any such need. In  
7 fact, APS's original TS-5 to TS-9 Application is effectively devoid of any evidence  
8 demonstrating the necessity of the TS-5 to TS-9 Project. *See generally*, Application. In fact,  
9 only five sentences of the Application even *mention* the need for two high powered  
10 transmission lines in the West Valley. *See id.*; *see also* Transcript of Line Siting Committee  
11 Proceedings, Testimony of Dr. Merrill, Oct. 22, 2008, 1573:3-7 ("My conclusions are all  
12 directed toward the stated need for this project. And the stated need for this project is found in  
13 three sentences in the application and in two additional sentences in other documentation from  
14 APS.")

15           Not only is APS's *stated* need for the project woefully deficient, but its claims of  
16 *technical* need also lack substance. During the recent hearings, Dr. Hyde Merrill, a seasoned  
17 electrical engineer and industry expert in utility planning and operations, demonstrated that,  
18 according to industry standards, APS has failed to establish the need for the TS-5 to TS-9  
19 Project. *See id.* at 1569-1610. Dr. Merrill's testimony was based not only on APS's  
20 Application, but also on the testimony of APS's electrical engineering expert, Mr. Lucas. *See*  
21 *id.* at 1573:8-18. Indeed, after hearing the testimony of Mr. Lucas, Dr. Merrill remained  
22 unconvinced that the TS-5 to TS-9 Project is necessary. *See id.* at 1573:19-1574:6 ("...[T]he  
23 technical need for this project on an engineering basis has not been established. It's not  
24 supported in accordance with reliability standards."). In fact, Dr. Merrill had no trouble  
25 demonstrating the inadequacy of APS's studies to date and itemizing the studies APS should  
26 perform to demonstrate the TS-5 to TS-9 Project's necessity. *See id.* ("It's not established that  
27 the project is needed to increase the Phoenix area import capability or the export capability of  
28 the Palo Verde Hub. It's not needed and it's not been established that it is needed to meet local

1 area load growth, referring here to the 230kV portion of the project. And it is not justified by  
2 the extreme contingency analysis that we heard about on Monday. Finally, the project does not  
3 close a 500kV loop.”).

4 As noted, Dr. Merrill established that the TS-5 to TS-9 Project is not necessary to meet  
5 established reliability standards. *See id.* at 1574:7-1579:12. Both Dr. Merrill and Mr. Lucas  
6 testified that the single contingency standard, or the “N-1 standard,” governs the proposed TS-5  
7 to TS-9 Project’s reliability standard. *See id.* at 1578:8-17; *see also* Testimony of John Lucas,  
8 Oct. 20, 2008, 1000:23-1001:7 (“N and N-1 are a requirement. It is a standard requirement.”).  
9 However, APS’s application lacks evidence that the TS-5 to TS-9 Project satisfies, or is needed  
10 to satisfy, the N-1 standard. *See* Testimony of Dr. Merrill at 1579:1-12 (“I searched and  
11 searched through the documentation associated with this filing, and I couldn’t find anything  
12 indicating whether or not it satisfied or whether it was needed to satisfy the N-1 criteria.”).  
13 Furthermore, Mr. Lucas likewise confirmed that neither the proposed 500 kV nor the 230 kV  
14 line are necessary to comply with N-1 reliability standards. *See* Testimony of John Lucas at  
15 1001:10-17 (“Q. Okay. And can you be more specific with the Siting Committee, what actual  
16 impact do you expect this, the economic situation to have on the project with respect to the in-  
17 service date? A. This line’s in-service date will slide a minimum of two years and up to four  
18 years. Q. Okay. So is that 2014 to 2016? A. That’s correct).

19 Dr. Merrill next demonstrated that the TS-5 to TS-9 Project is not needed to increase the  
20 Phoenix area import capability. *See* Testimony of Dr. Merrill at 1579:13-1581:2 (explaining  
21 the reasons for his statement that although the TS-5 to TS-9 Project would increase reliability,  
22 “the reliability was deemed to be adequate in 2006, and so there’s no indication as to why more  
23 reliability is needed.”). The TS-5 to TS-9 Project would likewise result in an unnecessary  
24 increase in load capability that is disproportionately high compared to the increase in load. *See*  
25 *id.* at 1580:2-15 (“...[W]ith the TS-5 to TS-9 project, the import capability increased 1,500  
26 megawatts more than the load would increase, making the margin significantly greater than the  
27 margin was in 2006. And the margin in 2006 was judged to be adequate in the biennial  
28

1 report.”). Thus, until APS can demonstrate that the reliability of the system is inadequate, the  
2 TS-5 to TS-9 Project remains unnecessary.

3 Dr. Merrill also debunked APS’s claim that the TS-5 to TS-9 Project is necessary to  
4 increase export capability out of the Palo Verde Hub. *See id.* at 1583:2-1586:2. Dr. Merrill  
5 engaged in an analysis of the hub’s export capability and determined that, even in light of  
6 APS’s part ownership of the transmission and generation, the transmission capability from the  
7 Palo Verde Hub is more than adequate in its current state. *See id.* at 1584:16-24 (“Without this  
8 new line, the transmission capability is more than adequate to take all of the power out of that  
9 plant.”). Dr. Merrill further established that the TS-5 to TS-9 Project is unnecessary to meet  
10 local area load growth. *See id.* at 1586:3-1588:7. Significantly, APS’s application does not  
11 address future projected load growth, nor does it discuss the areas in which load growth is  
12 expected to occur. *See id.* at 1586:21-24 (“There’s absolutely no substantiation as to how much  
13 load will be needed, how much load growth will occur, and when it will occur in the area  
14 associated with the 230kV line.”) Because APS has failed to present a reliable projection of  
15 future electrical needs, APS cannot prove that the transmission lines are necessary now or will  
16 be in the future. It is thus nonsensical and uneconomical to approve this expensive public  
17 project when there has been no showing that it is in the public’s best interest. *See id.* at 1588:4-  
18 6 (opining that “it’s dangerous to make a commitment to a line without any idea of the pattern  
19 of what the load growth is going to be.”).

20 Dr. Merrill also testified that the extreme contingency analysis presented in the hearings  
21 does not justify the TS-5 to TS-9 Project. *See id.* at 1589:3-1595:18. The extreme  
22 contingencies APS suggested are unduly severe and unlikely, and are therefore not appropriate  
23 benchmarks to establish the need for the TS-5 to TS-9 Project. *See id.* at 1594:20-1595:18  
24 (explaining APS’s unnecessarily stringent contingency tests and opining that “this is really an  
25 extreme test. And you can make any system fail, any system fail by simply taking enough  
26 contingencies.”).

27 Finally, Dr. Merrill confirmed that the Project does not close a 500 kV loop, as alleged  
28 by APS. *See id.* at 1595:19-1598:10. The loop will be complete without the TS-5 to TS-9

1 transmission line. *See id.* at 1596:16-24 (“That TS-5 to TS-9 line does not complete the loop.  
2 The loop will be as complete without the line as it will be with the line.”). The TS-5 to TS-9  
3 transmission line would merely add a third line to a section of the loop that already has two  
4 lines. *See id.* at 1596:16-1597:12. Dr. Merrill also noted that a power line “loop” is not a  
5 reliability concept and thus does not buttress APS’s claims that the TS-5 to TS-9 Project is  
6 necessary. *See id.* at 1597:13-18 (“... [A] loop isn’t a reliability concept. A loop is simply a  
7 description. And there’s nothing in the reliability standards that says that you need to have a  
8 loop.”).

### 9 III. LEGAL ARGUMENT

#### 10 A. APS Is Required To Prove That The TS-5 To TS-9 Project Is Necessary.

11  
12 Proof that the TS-5 to TS-9 Project is necessary is a prerequisite to both obtaining  
13 Corporation Commission approval and condemning private property to accommodate the  
14 utility. *See* A.R.S. § 40-360.07; A.R.S. § 12-1112 (necessity must be established “before”  
15 taking); *Desert Waters v. Superior Court*, 91 Ariz. 163, 171, 370 P.2d 652, 657 (1962)  
16 (“Section 12-1112 sets forth prerequisites which must be shown before the power of eminent  
17 domain may be exercised...”); *Phoenix v. Superior Court*, 137 Ariz. 409, 411, 671 P.2d 387  
18 (Ariz. 1983) (“the exercise of ... eminent domain is [] conditioned upon a showing that the  
19 property is ‘needed’ for that use”). As the Applicant for a Certificate of Environmental  
20 Compatibility, the Line Siting Committee should require APS to prove that its proposed project  
21 is necessary according to established industry criteria. A showing of necessity that complies  
22 with industry standards will be thorough and detailed, and should include evidence of current  
23 and projected load studies, anticipated population growth figures in the affected area, capacity  
24 and reliability measurements before and after construction of the proposed project, and other  
25 studies evidencing a manifest need for the proposed project. *See e.g., Re Cedar Falls Utilities*,  
26 2005 WL 2860287 \*13-14 (Iowa U.B. 2005) (finding applicant established that proposed  
27 transmission line was necessary by submitting evidence of increased reliability, increased  
28 demand for electricity, and increased efficiency); *Re Midwest Power*, 1993 WL 231592 \*6

1 (Iowa U.B. 1993) (finding that evidence presented by applicant, including proof of reliability of  
2 service, need for additional electric support for certain areas, and increasing population growth,  
3 was sufficient to prove the proposed transmission line "is necessary to serve a public use").  
4 Proof of necessity requires more than the conclusory assertions APS mentions in its TS-5 to  
5 TS-9 Application. *See id.*

6 Not only is APS's claim of necessity factually unsupported, but the recent hearings have  
7 established that the TS-5 to TS-9 Project is unnecessary by *any* applicable and reasonable  
8 reliability standard. Arizona law grants to the Corporation Commission, as well as the Line  
9 Siting Committee, the authority and the *responsibility* to reject any proposed utility that is not  
10 necessary for the public interest. *See* A.R.S. § 40-360.07; A.R.S. § 12-1112. Unless and until  
11 APS can prove the TS-5 to TS-9 line is necessary for public use by submitting reasonable  
12 evidence to that effect, APS cannot meet its statutory burden. APS would therefore benefit  
13 from a continuance, stay, or dismissal to allow it time to broaden its study area, analyze  
14 population growth figures, conduct extensive reliability and capacity research, and otherwise  
15 gather evidence that the TS-5 to TS-9 Project is necessary.

16 **B. This Committee Has Authority To Continue, Stay, Or Dismiss The Current**  
17 **Proceedings**

18 According to the Arizona Administrative Code, the Presiding Officer of the Line Siting  
19 Committee possesses the expansive power to "[r]egulate the course of a hearing" pending  
20 before the Committee. AZ ADC R14-3-201(E)(4) (outlining the powers and duties of the  
21 Presiding Officer). The Code contains a similar provision conferring the same broad,  
22 discretionary power upon the Corporation Commission. *See* AZ ADC R14-3-109(Q) (allowing  
23 the Corporation Commission to continue or stay its proceedings "on a showing of good cause").  
24 Such a continuance or stay may be granted to allow for additional investigation or evidence "or  
25 for any other proper purpose." *Id.*

26 Further, the Arizona Administrative Code contains a narrowly tailored provision that  
27 expressly grants the Presiding Officer the power to continue or stay Line Siting Committee  
28 proceedings at his discretion:



1 For good cause shown, continuances and extensions of time will be granted in  
2 the discretion of the Presiding Officer, provided however, that when such  
3 continuance or extension is provided to an applicant, the running of the 180-day  
4 period specified in R14-3-213(A) shall be deemed to be tolled and shall cease to  
5 run during such continuance or extension. No such continuance or extension shall  
6 be granted to an applicant until such applicant has waived its right to "immediately  
7 proceed with construction of the planned facilities" as provided in A.R.S. § 40-  
8 360.08(B) for a period of time equal to the applicable time period under these  
9 regulations; plus such continuance or extension.

10 AZ ADC R14-3-209 (hereinafter "R14-3-209") (emphasis added). The plain language  
11 of the provision is clear. The first sentence suggests that the Presiding Officer may grant an  
12 extension of time or continue a proceeding, regardless of which party requests it, provided that  
13 the hearing deadlines be tolled for the duration of the extension. The second sentence indicates  
14 that, if it is the *applicant* (in this case, APS) requesting a continuance of extension, the  
15 applicant must accompany its request with a waiver of the hearing deadlines. When an  
16 applicant requests an extension or continuance, R14-3-209 requires the applicant to waive its  
17 right to begin construction of the planned facilities pursuant to A.R.S. § 40-360.08(B), which  
18 provides that a utility may begin construction "[i]f the committee or the commission fails to act  
19 on an application within the applicable time period". The second sentence of R14-3-209  
20 merely safeguards against the hypothetically deceitful applicant who requests an extension and  
21 then, when the Committee fails to rule on its application within the time limits, begins  
22 construction of its utility before the Committee can act.

23 The second sentence of R14-3-209 is wholly inapplicable to the case at bar.<sup>2</sup> As a  
24 preliminary matter, APS (the applicant) is not the party requesting an extension or continuance  
25 so the second sentence does not apply to the current proceeding. Second, even if the second

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26 <sup>2</sup> APS expressed its interpretation of the second sentence of R14-3-209 in recent Line Siting  
27 Committee hearings. See Transcript of Line Siting Committee Proceedings, Nov. 19, 2008, at 2949:16-  
28 23 (referring to the second sentence of R14-3-209, APS stated, "We believe that the 180-day rule is in  
force unless we waive it."). APS failed to acknowledge that the first sentence of R14-3-209 permits the  
Presiding Officer to grant a continuance or extension for good cause shown, regardless of which party  
requests it, provided the deadlines are tolled. APS is correct that if APS had requested the continuance  
or extension, it would have to waive the 180-day time period set forth in R14-3-213(A). This is not the  
case, however.

1 sentence did apply, APS is not in a position to take advantage of A.R.S. § 40-360.08(B), which  
2 only allows a utility to begin construction of a utility without committee and commission  
3 approval if two conditions are met: 1) “the committee or the commission fails to act on an  
4 application within the applicable time period”, and 2) the applicant begins construction “in the  
5 interest of providing adequate, reliable and economical electric service to its customers.” The  
6 first element is not satisfied because the committee *has* acted on APS’s application in a timely  
7 manner. Neither can APS satisfy the second element: because the TS-5 to TS-9 Project will not  
8 be completed for several years, APS cannot claim that it must begin construction immediately  
9 to properly provide electric service to consumers. Third, APS’s position is inherently flawed  
10 from a public policy standpoint. According to APS’s interpretation of R14-3-209, only the  
11 applicant – *not the other parties* – may request a continuance. Such a myopic interpretation of  
12 R14-3-209 is contrary to both the plain language of the provision and notions of due process.  
13 *See Dugan v. Fujitsu Bus. Communs. Sys., Inc.*, 188 Ariz. 516, 518, 937 P.2d 706, 708 (Ct.  
14 App. 1997) (citation omitted) (“When interpreting statutes, we look first to their language; if it  
15 is plain and unambiguous, we apply it without resorting to other rules of statutory  
16 construction.”).

17 In addition to the Code provisions that afford both the Corporation Commission and the  
18 Line Siting Committee the power to regulate proceedings and grant discretionary extensions of  
19 time, the Line Siting Committee and the Corporation Commission have historically placed a  
20 premium on their ability to regulate and control the course of the proceedings including but not  
21 limited to the authority to continue or stay proceedings. For instance, the Corporation  
22 Commission recently granted a stay lasting over fifteen months in *The Matter of the*  
23 *Application of OCMC, Inc.* See 2004 WL 3398487 (Ariz. C.C. Dec. 3, 2004). There, OCMC,  
24 Inc. applied for a Certificate of Convenience and Necessity (“CC&N”) to provide resold  
25 interexchange services and alternative operator services in Arizona. OCMC also requested a  
26 transfer of Opticom’s existing CC&N to do the same. The Corporation Commission’s Utilities  
27 Division Staff (“Staff”) originally recommended approval of the transfer but, several days later,  
28 Staff filed a Motion for Stay of Proceedings requesting that the proceedings be stayed

1 indefinitely to allow Staff time to further investigate a new issue. *Id.* The Corporation  
2 Commission granted the Staff's Motion for Stay and accordingly tolled the time clock  
3 provisions. *Id.* The stay lasted fifteen months, at which point OCMC filed a Motion to Lift  
4 Stay, stating it had resolved all the outstanding concerns. The Corporation Commission  
5 granted the Motion to Lift Stay and the proceedings continued at that time. *Id.*

6 Corporation Commissions in other jurisdictions similarly have been willing to continue  
7 or stay proceedings to allow the parties time to gather further information or expand their  
8 investigation. *See, e.g., In re KAMO Electric Cooperative, Inc.*, 2008 WL 2095818 (Kan.  
9 S.C.C. 2008) (intervenor requested Commission to delay hearing to allow intervenor to conduct  
10 a cost/benefit analysis concerning the proposed transmission line; over the applicant's  
11 objection, Commission granted the continuance); *In re Oklahoma Gas and Electric Company*,  
12 2003 WL 24207832 (Ark. P.S.C. 2003) (granting a continuance to "study and consider  
13 alternative routes for [applicant's] proposed transmission line"). In other cases, Commissions  
14 have dismissed without prejudice a pending application to allow for further studies. *See, e.g.,*  
15 *Application of City of Marble Falls*, 1976 WL 41718 (Tex. P.U.C. 1976) (rather than allow the  
16 application to remain pending and "congest the Commission's docket with an application which  
17 may or may not ever come to fruition," Commission dismissed the City's application "without  
18 prejudice to refiling same").

19 As set forth above, the Committee has the authority pursuant to AZ ADC R14-3-209 and  
20 AZ ADC R14-3-201(E) to continue or stay these proceedings. The Committee and/or Presiding  
21 Officer should accordingly exercise such authority as APS has not demonstrated the necessity  
22 of the TS-5 to TS-9 Project.

23 **C. A Stay, Continuance, Or Dismissal Would Afford APS The Time It Needs To**  
24 **Gather Research To Support Its Application.**

25 APS has been unable to show the TS-5 to TS-9 Project is necessary for public use. As a  
26 result, the Committee and the Corporation Commission are prohibited from approving APS's  
27 Application in its current state. However, if the Committee were to continue, stay or dismiss  
28 without prejudice the pending application, APS would have the opportunity to gather the  
information it needs to prove the TS-5 to TS-9 Project is necessary.

1 The hearings in this matter have established that APS would benefit from a renewed  
2 opportunity and extended time to *plan* this TS-5 to TS-9 Project. As part of its determination  
3 of need, APS should meet with regional planning commissions and/or city representatives to  
4 make the most of their input and perspectives. Additionally, APS should revisit the Phoenix  
5 area population growth figures in light of the slowing development market. On a similar note,  
6 APS should re-evaluate the cost effectiveness of this extraordinarily costly project in light of  
7 the economic downturn, APS's current financial stability, and reduced population growth  
8 figures. APS should also conduct an in-depth examination of existing import and export  
9 capabilities and reliability measures to determine whether the West Valley can operate without  
10 the cost and benefit of the TS-5 to TS-9 Project.

11 The requested continuance, stay or dismissal should be granted to allow APS to perform  
12 the required investigation and bolster its Application. Once it has more thoroughly planned the  
13 TS-5 to TS-9 Project and can prove it is necessary for a public use, APS may then resubmit or  
14 cancel its Application according to its findings. While such extensive research undoubtedly  
15 will take several months to complete, a proper showing of necessity is *required* by Arizona law;  
16 neither the Line Siting Committee nor the Corporation Commission may approve a proposed  
17 utility project until such a showing has been made.

18 **D. APS Has Delayed Or Otherwise Indefinitely Postponed At Least One Other**  
19 **Proposed Project Due To Economic Downturn And Dwindling Development**  
20 **In Arizona.**

21 Just over one month ago, APS announced it would delay a proposed transmission line  
22 project in Southern Arizona after several months of exploring various routes, meeting with  
23 stakeholders, and gathering public input. See Joyce Lobeck, *Arizona Public Service Delays*  
24 *New Power Line*, IStockANALYST, Sept. 17, 2008,  
25 [www.istockanalyst.com/article/viewarticle+articleid\\_2624493.html](http://www.istockanalyst.com/article/viewarticle+articleid_2624493.html) ("iStockAnalyst Article").  
26 APS spokesperson Jim MacDonald indicated that the decision to delay the project is in the best  
27 interest of the company and the ratepayers due to the country's uncertain economic structure.  
28 See *APS Delays Yuma Transmission Line, More Project Delays Ahead*, AZ TECH NEWS, Sept.  
18, 2008, [www.aztechnews.net/2008/09/aps-delays-yuma-transmission-line-more.html](http://www.aztechnews.net/2008/09/aps-delays-yuma-transmission-line-more.html) ("AZ

1 Tech News Article"). APS made the decision to delay the proposed 230 kV line through Yuma  
2 after it re-evaluated its delivery system in light of the economic downturn and related decline in  
3 development. APS discovered its load projections were inflated and determined it "can meet  
4 the demand at this time and can postpone the project." iStockAnalyst Article, *supra*.

5 Although APS indefinitely postponed the proposed Yuma transmission line, it reserved  
6 the right to proceed with the project should it become necessary in the future. The APS project  
7 manager indicated the new transmission line will be brought back as demand dictates a need for  
8 it. *See id.* He indicated that APS will proceed "[a]t the appropriate time" and likely will draw  
9 on the work already done on the siting project, though APS did not indicate whether it would  
10 propose the same or different routes. *Id.*

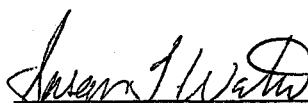
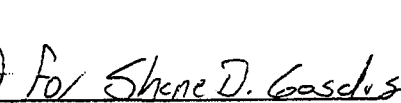
11 Like APS's postponed project in Southern Arizona, current load growth figures and  
12 existing import and export capability in the West Valley do not warrant construction of the TS-  
13 5 to TS-9 line. The TS-5 to TS-9 Project is unnecessary, and the economic downturn coupled  
14 with slowing population growth figures have made this Project even more superfluous.  
15 Moreover, APS has publicly indicated it plans to cut unnecessary spending. In fact, while  
16 testifying before the Corporation Commission, APS chief executive Don Brandt stated APS is  
17 looking to reduce capital expenditures and stated, "At this time, all projects are on the table (for  
18 delay)." AZ Tech News Article, *supra*. The TS-5 to TS-9 Project, a redundant transmission  
19 line with a multi-million dollar price tag, is ripe for delay or even cancellation. At the very  
20 least, the Commission should stay or dismiss the pending Application to grant APS more time  
21 to investigate outstanding issues and present solid evidence of necessity.

22 Rather than rubber stamp the Application based upon such speculative (if not complete  
23 lack of) necessity, this Corporation Committee should instead continue, stay or otherwise  
24 dismiss these proceedings until APS can demonstrate a reasonable need for the TS-5 to TS-9  
25 Project.

1 **V. CONCLUSION**

2 For the foregoing reasons, 10,000 West respectfully requests that the Committee enter an  
3 Order continuing, staying or dismissing without prejudice the current proceedings.  
4

5 RESPECTFULLY SUBMITTED this 25th day of November, 2008.  
6

7  

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17 the foregoing filed this 25th day  
18 of November, 2008, to:

19 The Arizona Corporation Commission  
20 Docket Control – Utilities Division  
21 1200 W. Washington Street  
22 Phoenix, AZ 85007

23 **COPY** of the foregoing hand-delivered  
24 this 25th day of November, 2008, to:

25 John Foreman, Chairman  
26 Arizona Power Plant and Transmission Line Siting Committee  
27 Office of the Attorney General  
28 PAD/CPA  
1275 W. Washington Street  
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By:   
Linda Farrell

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9  
10 **BEFORE THE ARIZONA POWER PLANT**  
11 **AND TRANSMISSION LINE SITING COMMITTEE**  
12

13 IN THE MATTER OF THE APPLICATION OF ) Docket No. L-00000D-08-0330-00138  
14 ARIZONA PUBLIC SERVICE COMPANY, IN )  
15 CONFORMANCE WITH THE ) **[PROPOSED] ORDER GRANTING**  
16 REQUIREMENTS OF ARIZONA REVISED ) **10,000 WEST L.L.C.'S MOTION TO**  
17 STATUTES §§ 40-360, *et seq.*, FOR A ) **CONTINUE, STAY OR DISMISS**  
18 CERTIFICATE OF ENVIRONMENTAL ) **PROCEEDINGS BEFORE THE**  
19 COMPATIBILITY AUTHORIZING THE TS-5 ) **ARIZONA POWER PLANT AND**  
20 TO TS-9 500/230 kV TRANSMISSION LINE ) **CORPORATION COMMISSION IN**  
21 PROJECT, WHICH ORIGINATES AT THE ) **CONNECTION WITH APS'S TS-5 TO**  
22 FUTURE TS-5 SUBSTATION, LOCATED IN ) **TS-9 500/230 kV PROJECT**  
23 THE WEST HALF OF SECTION 29, )  
24 TOWNSHIP 4 NORTH, RANGE 4 WEST AND )  
25 TERMINATES AT THE FUTURE TS-9 ) Before: Chairman John Foreman  
26 SUBSTATION, LOCATED IN SECTION 33, )  
27 TOWNSHIP 6 NORTH, RANGE 1 EAST, IN )  
28 MARICOPA COUNTY, ARIZONA. )

24 Chairman John Foreman having considered 10,000 West, L.L.C.'s Motion to Continue,  
25 Stay or Dismiss Proceedings Before the Arizona Power Plant and Arizona Corporation  
26 Commission in Connection with APS's TS-5 to TS-9 500/230 kV Project, and good cause  
27 appearing therefore, it is  
28

**ORDERED** that 10,000 West, L.L.C.'s Motion to Continue, Stay or Dismiss Proceedings Before the Arizona Power Plant and Arizona Corporation Commission in Connection with APS's TS-5 to TS-9 500/230 kV Project is granted and that this action is hereby continued, stayed or dismissed.

Dated: \_\_\_\_\_

**Chairman John Foreman**